

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

MARLON WATKINS,

*Plaintiff,*

*versus*

MICHAEL J. ASTRUE, Commissioner  
of the Social Security Administration,

*Defendant.*

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CIVIL ACTION NO. H-05-3233

**MEMORANDUM AND ORDER**

On February 7, 2007, Magistrate Judge Calvin Botley issued a Memorandum and Recommendation [Doc. # 29] on Plaintiff Marlon Watkins' ("Watkins") and Defendant Michael J. Astrue's, Commissioner of the Social Security Administration ("Commissioner"),<sup>1</sup> cross-motions for summary judgment.

This Court has reviewed the Memorandum and Recommendation, noting that no objections have been filed, and the cross-motions for summary judgment filed by the parties. It is, therefore,

**ORDERED** that the Memorandum and Recommendation is **ADOPTED** as this Court's Memorandum and Order. It is further

**ORDERED** that Watkins' Motion for Summary Judgment [Doc. # 22] is **GRANTED**.

It is further

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<sup>1</sup> Michael J. Astrue was confirmed by the Senate as Commissioner of Social Security on February 1, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue should therefore be substituted for Jo Anne B. Barnhart (former Commissioner) and Linda S. McMahon (interim acting Commissioner) as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).


**ORDERED** that the Commissioner's Motion for Summary Judgment [Doc. # 24] is **DENIED**. It is further

**ORDERED** that the case is **REVERSED** and **REMANDED**, pursuant to "sentence four" of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), to the Commissioner for a new hearing. It is finally

**ORDERED** that this matter be **DISMISSED** from the dockets of this Court.

The Clerk of the Court shall file this Memorandum and Order and provide the parties with a true copy.

**SIGNED** at Houston, Texas, on this the 28<sup>th</sup> day of February, 2007.

  
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Nancy F. Atlas  
United States District Judge